

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

GILBERT CAMPBELL, JR.
Claimant

VS.

HIGHWAY SERVICES, INC.
Respondent

AND

**INSURANCE COMPANY STATE OF
PENNSYLVANIA**
Insurance Carrier

)
)
)
)
)
)
)
)
)
)

Docket No. 244,953

ORDER

Respondent and its insurance carrier appealed the December 7, 1999 preliminary hearing Order entered by Administrative Law Judge Bryce D. Benedict.

ISSUES

This is a claim for a May 7, 1999 accident and alleged injury to the right ankle and leg. After conducting a preliminary hearing on August 4, 1999, the Judge appointed Dr. Edward J. Prostic to examine claimant and provide an opinion on whether claimant's tendon rupture was related to his May 7, 1999 work-related accident. After receiving Dr. Prostic's opinions, the Judge granted claimant's request for medical benefits and temporary total disability benefits.

Respondent and its insurance carrier contend Judge Benedict erred by awarding claimant benefits in this claim. They argue that claimant ruptured his right Achilles tendon on May 9, 1999, while playing basketball at his brother's house and, therefore, that incident constituted a new and separate accident that is not compensable under the Workers Compensation Act.

Conversely, claimant contends the tendon rupture was the direct result of his May 7, 1999 work-related accident when an air hose broke loose from a jackhammer and repeatedly struck the back of his right ankle.

The only issue before the Appeals Board is whether the tendon rupture was the natural and direct result of the May 7, 1999 work-related accident.

FINDINGS OF FACT

After reviewing the record compiled to date, the Appeals Board finds:

1. On May 7, 1999, while working for Highway Services, Inc., Mr. Gilbert Campbell, Jr., injured his right leg and ankle when he was struck in the back of the leg by an air hose that had come loose from a jackhammer.
2. The accident occurred at approximately two o'clock on a Friday afternoon. For the remainder of the workday, Mr. Campbell performed light work. The next day, Saturday, Mr. Campbell was minimally active.
3. On Sunday, May 9, 1999, Mr. Campbell went to his brother's house for Mother's Day. Shortly after he arrived, Mr. Campbell's right Achilles tendon ruptured as he was stepping out of his brother's garage onto the driveway to catch a basketball.
4. Immediately after the incident, Mr. Campbell went to the hospital emergency room. The next day, Monday, May 10, 1999, orthopedic surgeon Tom L. Shriwise, M.D., examined Mr. Campbell. On May 14, 1999, Dr. Shriwise operated on Mr. Campbell and repaired the ruptured tendon. In the Disability Certificate dated May 10, 1999, the doctor indicated the May 7, 1999 accident may have precipitated the complete Achilles tendon rupture.
5. On October 19, 1999, orthopedic surgeon Edward J. Prostic, M.D., examined Mr. Campbell at Judge Benedict's request. Dr. Prostic believes that the tendon rupture was the direct and natural consequence of the work-related accident.
6. Based upon the evidence presented to date, the Appeals Board finds that it is more probably true than not that the Achilles tendon rupture was the direct and natural result of the May 7, 1999 work-related accident.

CONCLUSIONS OF LAW

1. The preliminary hearing Order should be affirmed.
2. Every natural and direct consequence that flows from a compensable injury is also compensable under the Workers Compensation Act.¹ Because the ruptured Achilles tendon is a direct and natural result of the May 7, 1999 work-related accident, it is

¹ *Jackson v. Stevens Well Service*, 208 Kan. 637, 493 P.2d 264 (1972).

compensable in this claim. At this juncture, the Appeals Board rejects the argument that the May 9, 1999 incident constituted a new and distinct non-compensable incident.

WHEREFORE, the Appeals Board affirms the December 7, 1999 preliminary hearing Order entered by Judge Benedict.

IT IS SO ORDERED.

Dated this ____ day of January 2000.

BOARD MEMBER

c: Leah Brown Burkhead, Mission, KS
David F. Menghini, Kansas City, KS
Bryce D. Benedict, Administrative Law Judge
Philip S. Harness, Director